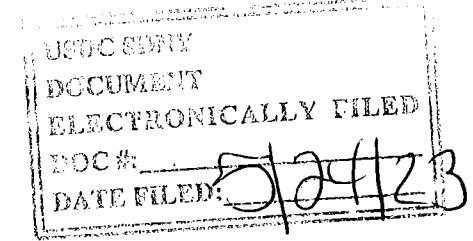


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Chambers of Vincent L. Briccetti



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
JOSE RIVERA COLON, :
Plaintiff, :
v. :
: :
GUTWEIN; R. FLANAGAN; J. CROFOOT; : 22 CV 635 (VB)
and S. HAZELWOOD, :
Defendants. :
-----x

ORDER

On January 24, 2022, plaintiff, who is proceeding pro se and in forma pauperis, commenced this action by filing a complaint. (Doc. #1).

On February 21, 2023, the Court issued an Opinion and Order granting defendants' motion to dismiss the complaint in part and dismissing all of plaintiff's claims except for his Eighth Amendment excessive force claims against defendants Crofoot, Flanagan, and Hazelwood, in their individual capacities. (Doc. #38). Further, the Court granted plaintiff leave to file an amended complaint, by April 21, 2023, to pursue only claims for (i) excessive force against Crofoot, Flanagan, and Hazelwood, in their individual capacities; (ii) failure to intervene against defendants Gunsett and Mangino; and (iii) due process violations related to plaintiff's allegedly deficient disciplinary hearing. (*Id.*). The Court also stayed the time for defendants Crofoot, Flanagan, and Hazelwood to answer the complaint, pending further Court Order. (*Id.*).

By Order dated March 30, 2023, the Court granted plaintiff's request dated March 27, 2023, for an extension of time, to May 19, 2023, to file an amended complaint. (Doc. #40).

On May 23, 2023, the Court received plaintiff's amended complaint, which is postmarked May 15, 2023. (Doc. #41). The amended complaint names Gutwein, Crofoot, Flangan, and Hazelwood as defendants. (*Id.* at ECF 3). The amended complaint does not contain a failure to intervene claim as to defendants Gunsett and Mangino.

Accordingly, it is hereby ORDERED:

1. By June 14, 2023, defendants shall answer, move, or otherwise respond to the amended complaint.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. Cf. Coppededge v. United States, 369 U.S. 438, 444–45 (1962).

Chambers will mail a copy of this Order to plaintiff at the address on the docket.

Dated: May 24, 2023
White Plains, NY

SO ORDERED:



Vincent L. Briccetti
United States District Judge